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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/531,904   | 10/27/2005  | Carsten Peuster      | PEUSTER C - 1       | 3920             |
| 25889  | 7590        | 08/29/2008           | EXAMINER            |                  |
| COLLARD & ROE, P.C.<br>1077 NORTHERN BOULEVARD<br>ROSLYN, NY 11576 |             |                      | PILKINGTON, JAMES   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3682                |                  |
|  |             |                      | MAIL DATE           | DELIVERY MODE    |
|  |             |                      | 08/29/2008          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/531,904             | PEUSTER, CARSTEN    |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | JAMES PILKINGTON       | 3682                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/18/05 &amp; 10/27/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drive train, the two part ring (clm 9), the lock (clm 13), the contour shape (clm 14), a conventional selector (clm 15) and the following actuators (clms 16 and 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

3. The Abstract is objected to for containing more than 15 lines or 150 characters.
4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title recites a drive train however a drive train is not part of what the applicant regards as the inventive feature.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, there is a lack of antecedent basis for the limitation "the steering wheel" in line 5.

Claims 4, 5 and 7 recite stable and unstable positions. It is not clear what defines a stable or unstable position. What structure determines if a position is stable or unstable?

Claim 10, there is a lack of antecedent basis for the limitation "the ring" in line 3.

Claim 12, the phrase "can be" renders the claim indefinite since it is unclear if the limitation following "can be" is required by the claim.

Claim 13, the phrase "somewhat greater effort" is unclear since it is not understood how much effort constitutes "somewhat greater." How much is "somewhat greater"?

All claims are general narrative rendering it unclear if the invention being claimed is the structure of the selection device or the control system and operation of the switch. Since no control diagrams are present in the Applicant the claims are being examined as if the structure of the selection device is invention, not how the selection device functions.

***Claim Rejections - 35 USC § 102***

Art Unit: 3682

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4, 5 and 18, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Vollmar, USP 6,474,187 (originally published as WO00/77425 on 12/21/2000).

Vollmar discloses a selection device (2) wherein:

- the selection device (2) is arranged on a steering wheel (1) of the motor vehicle, and an actuation of the selection device (2) for selecting the driving mode range takes place by means of a rotational movement about a steering wheel rim of the steering wheel (1)
- the selection device (2) has a plurality of stable positions (two locked positions C3/L44)
- the selection device (2) has two unstable outer or shift positions and at least one stable middle position (high low and neutral, C3/L49-58)

9. Claims 1, 2, 4, 5, 9-11, 14 16-18, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Boll, DE 19539847 (submitted by applicant).

Boll discloses a selection device (5) wherein:

- the selection device (5) is arranged on a steering wheel (2) of the motor vehicle, and an actuation of the selection device (5) for selecting the

driving mode range takes place by means of a rotational movement about a steering wheel rim of the steering wheel (2)

- the selection device (5) has a plurality of stable positions
- the selection device (5) has two unstable outer or shift positions and at least one stable middle position
- wherein the selection device is a two-part ring (5a, 5b)
- wherein the ring has a marking a nose or a notch (grip 11)
- wherein the ring has a contour which corresponds to the wheel (2) in one position and deviates from the wheel in another position (at switching element)
- the selection device is connected to following actuators (22) to transmit a signal

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 7, 8, 12 and 13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmar '187 or Boll DE847 in view of Miller USP 5,808,374.

Vollmar and Boll disclose all of the claimed subject matter as discussed above.

Neither Vollmar nor Boll disclose the selection device being displaceable along the steering wheel.

Miller teaches a selection device (38/82) arranged on a steering wheel (37) which is configured to displace along the steering wheel (see Figure 1D).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Vollmar or Boll and provide for the selection device to displace along the steering wheel, as taught by Miller, for the purpose of adding an additional control element to the selection device without adding an additional selection device (Miller C1-2).

12. Claim 6, as best understood, is rejected under 35 U.S.C 103(a) as being unpatentable over Vollmar '187 or Boll DE847 in view of Onodera, USP 6,327,932.

Vollmar or Boll disclose all of the claimed subject matter as disclosed above. Vollmar and Boll both disclose that the selection device is a latching switch.

Neither Vollmar nor Boll disclose that the selection device also includes a push button.

Onodera teaches using a push button (6-11) on the steering wheel to control features of the car.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a push button switch to the device of Vollmar or Boll, as taught by Onodera, to provide an additional controlling element to control an additional operation of the vehicle.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES PILKINGTON whose telephone number is (571)272-5052. The examiner can normally be reached on 7-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. P./  
Examiner, Art Unit 3682  
7/28/08

/Richard WL Ridley/  
Supervisory Patent Examiner, Art Unit 3682